Appl. No. 09/675,532
Amdt. dated January 28, 2005
Reply to Office action of November 10, 2004

REMARKS/ARGUMENTS

Applicant received the Office action dated November 10, 2004, in which the Examiner rejected claims 1-24 under as obvious over Barnett (U.S. Pat. No. 5,664,093) in view of Chakravarty (U.S. Pat. No. 5,161,158). Based on the arguments below, Applicant traverses the rejections and respectfully requests reconsideration and allowance of all pending claims.

Claim 1 requires two instances of "determining an overall problem index value." As explained in the previous response to Office action, Barnett does not teach or suggest that limitation. The Examiner has agreed. Office action, page 3 ("Barnett does not explicitly teach the steps of determining an overall problem index value for the current configuration and determining an overall problem index value for the configuration as varied in (c)"). Instead, the Examiner now uses Chakravarty for allegedly teaching this limitation.

Chakravarty is directed to a simulator that simulates the operation of an avionics system. See Abstract and col. 6, lines 9-20. Chakravarty discloses imposing a failure on the simulated system and tracing the effects of the failure throughout the rest of the system during the simulation. See e.g., col. 6, lines 33-37. With regard to the claim limitation of "determining an overall problem index value," the Examiner uses a passage from column 6 of Chakravarty which states that the result of the simulation using the input failure "is a list of failures that would result from the initial failure." Col. 6, lines 37-38. Thus, the Examiner apparently equates the claimed "overall problem index value" with Chakravarty's "list of failures." Applicant disagrees with the Examiner's analysis.

Claim 1 requires the determination of a "value" (specifically, an "overall problem index value"). Chakravarty does not teach or even suggest determining a value in the context of claim 1. It can hardly be said that a list of failures (Chakravarty) equates to a value (claim 1). Barnett is deficient in this regard as agreed to by the Examiner. For at least this reason, claim 1 and all claims dependent thereon are patentable over the art of record.

Dependent claims 7-11 provide additional limitations regarding the overall problem index value that, as explained above, is not disclosed in either Barnett or

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Chakravarty. With regard to claim 7, the Examiner states that "Barnett teaches the step of determining an overall problem index value... ." Office action, page 4. This statement is inherently inconsistent with the Examiner's conclusion that "Barnett does not explicitly teach the steps of determining an overall problem index value... ." Office action, page 3. For this additional reason, claim 7 and claim 8 (which depends on claim 7) are allowable.

Dependent claim 10 specifically requires that the overall problem index value "is an indication of the severity of problems... ." This limitation is clearly not disclosed in Chakravarty. The Examiner did not find this limitation in the art of record, but stated that it would have been "a matter of design choice for the problem index value [to be] used to indicate the number of problems or severity of problems or both." Office action, page 4. The Examiner seems to imply that a voluminous list of problems somehow characterizes the "severity" of the problems. A voluminous list of insignificant problems with a system does not necessarily equate to the system having a "severe" problem. Even a single failure could cause a "sever" problem with a system. Thus, the "severity of problems" cannot necessarily be ascertained by simply considering the number of failures on a list.

Applicant also does not agree that the consideration as to what is a "design choice" is even relevant to an obviousness analysis. At a minimum, Applicant respectfully requests the Examiner to establish why the Examiner believes that design choices are legally relevant to an obviousness analysis.

Independent claim 12 requires, among other features, that "a configuration module...determines an overall problem index value associated with the current configuration... ." As explained above, the Examiner agrees that Barnett does not disclose determining an overall problem index. Further, Chakravarty discloses generating a list of failures associated with a simulation and not determining an "overall problem index value." At least for this reason, claim 12 and its dependent claims are in condition for allowance.

In the course of the foregoing discussions, Applicant may have at times referred to claim limitations in shorthand fashion, or may have focused on a

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particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the cited art which have yet to be raised, but which may be raised in the future.

Applicant respectfully request reconsideration and that a timely Notice of Allowance be issued in this case. It is believed that no extensions of time or fees are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required (including fees for net addition of claims) are hereby authorized to be charged to Hewlett-Packard Development Company's Deposit Account No. 08-2025.

Respectfully submitted,

Jonathan M. Harris
PTO Reg. No. 44,144
CONLEY ROSE, P.C.
(713) 238-8000 (Phone)
(713) 238-8008 (Fax)
ATTORNEY FOR APPLICANT

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
Legal Dept., M/S 35
P.O. Box 272400
Fort Collins, CO 80527-2400

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